



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2018-0523; FRL-9992-53-Region 4]

Air Plan Approval and Designation of Areas; FL; Redesignation of the Nassau County

2010 1-Hour Sulfur Dioxide Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In a letter dated June 7, 2018, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Nassau County sulfur dioxide (SO₂) nonattainment area (hereinafter referred to as the “Nassau County Area” or “Area”) to attainment for the 2010 1-hour SO₂ primary national ambient air quality standard (NAAQS) and to approve an accompanying state implementation plan (SIP) revision containing a maintenance plan for the Area. The submittal was received by EPA on June 12, 2018. EPA is taking final action to determine that the Nassau County Area attained the 2010 1-hour SO₂ NAAQS by its applicable attainment date of October 4, 2018; to approve the SIP revision containing the State’s plan for maintaining attainment of the 2010 1-hour SO₂ standard and to incorporate the maintenance plan into the SIP; and to redesignate the Nassau County Area to attainment for the 2010 1-hour SO₂ NAAQS.

DATES: This rule will be effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0523. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Sanchez may be reached by phone at (404) 562-9644 or via electronic mail at sanchez.madolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is the Background for the Actions?

On June 2, 2010, EPA revised the primary SO₂ NAAQS, establishing a new 1-hour SO₂ standard of 75 parts per billion (ppb). *See* 75 FR 35520 (June 22, 2010). Under EPA's

regulations at 40 CFR part 50, the 2010 1-hour SO₂ NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T). *See* 40 CFR 50.17. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including state-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.¹

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS. EPA designated the Nassau County Area as nonattainment for the 2010 1-hour SO₂ NAAQS, effective on October 4, 2013, using 2009-2011 complete, quality assured, and certified ambient air quality data. *See* 78 FR 47191 (August 5, 2013). The Area is comprised of the portion of Nassau County encompassing the circular boundary with the center being Universal Transverse Mercator (UTM) Easting 455530 meters, UTM Northing 3391737 meters, UTM zone 17, using the NAD83 datum (the location of the ambient SO₂ monitor in the Area) and the radius being 2.4 kilometers (km). Under the CAA, nonattainment areas must attain the NAAQS as expeditiously as practicable but not later than five years after the October 4, 2013, effective date of the designation. *See* CAA section 192(a). Therefore, the Nassau County Area's applicable attainment date was no later than October 4, 2018.

¹ *See* 40 CFR part 50, appendix T, section 3(b).

EPA's 2010 SO₂ nonattainment designation for the Area triggered an obligation for Florida to develop a nonattainment SIP revision addressing certain requirements under title I, part D, subpart 1 (hereinafter "Subpart 1"), and to submit that SIP revision to EPA in accordance with the deadlines in title I, part D, subpart 5 (hereinafter "Subpart 5"). Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of reasonably available control measures (RACM), requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, a SIP-approved nonattainment new source review (NNSR) permitting program that accounts for growth in the area, enforceable emission limitations and other such control measures, and provides for the implementation of contingency measures. This SIP revision was due within 18 months following the October 4, 2013, effective date of designation (i.e., April 4, 2015). *See* CAA section 191(a). Florida submitted a nonattainment SIP revision to EPA on April 3, 2015.

Florida's nonattainment SIP revision included permit conditions prescribing controls and emissions limits to reduce SO₂ emissions at the only point source of SO₂ emissions within the Nassau County Area – Rayonier Performance Fibers, LLC Fernandina Beach Sulfite Pulp Mill (Rayonier) – and at the largest source of SO₂ within 25 km outside of the nonattainment area – WestRock CP, LLC Fernandina Beach Mill (WestRock). These measures were fully implemented at Rayonier during the second quarter of 2014 and at WestRock in December 2017. Florida's nonattainment SIP revision also included a modeled attainment demonstration for the 2010 SO₂ NAAQS based on the permit conditions at Rayonier and WestRock provided therein, a base year emissions inventory, RACM/Reasonably Available Control Technology (RACT), an

RFP plan, NNSR permitting program, and contingency measures for the Nassau County Area, thereby satisfying the required nonattainment planning requirements mentioned above for the Nassau County Area. On July 3, 2017 (82 FR 30749), EPA approved Florida's April 3, 2015, SO₂ nonattainment SIP revision, making the aforementioned permit conditions at Rayonier and WestRock permanent and enforceable.

On June 7, 2018, Florida submitted a request to EPA for redesignation of the Nassau County Area to attainment for the 2010 1-hour SO₂ NAAQS and a related SIP revision containing a maintenance plan for the Area. In a notice of proposed rulemaking (NPRM) published on February 15, 2019 (84 FR 4411), EPA proposed to determine that the Area attained the 2010 1-hour SO₂ NAAQS by its attainment date of October 4, 2018; to approve the maintenance plan for the Area as meeting the maintenance plan requirements of CAA section 175A and to incorporate it into the SIP; and to approve Florida's request for redesignation of the Area from nonattainment to attainment for the 2010 1-hour SO₂ NAAQS as meeting the redesignation requirements of CAA section 107(d)(3)(E). No adverse comments were received on the February 15, 2019, proposed rulemaking. The details of Florida's submittal and the rationale for EPA's actions are further explained in the NPRM, including the modeled attainment demonstration and quality-assured, complete, and certified 2015-2017 ambient air monitoring data used to determine attainment with the 2010 1-hour SO₂ NAAQS.

II. What are the Effects of these Actions?

Approval of the redesignation request changes the legal designation of the Nassau County Area, found at 40 CFR 81.310, from nonattainment to attainment for the 2010 1-hour SO₂ NAAQS. Approval of Florida's associated SIP revision also incorporates a plan into the SIP for

maintaining the 2010 1-hour SO₂ NAAQS in the Nassau County Area as described in the NPRM. The maintenance plan also establishes contingency measures to remedy any future violations of the 2010 1-hour SO₂ NAAQS and procedures for evaluation of potential violations.

EPA is finalizing the redesignation of the Nassau County Area to attainment for the 2010 1-hour SO₂ NAAQS and finalizing the approval of the CAA section 175A maintenance plan for the 2010 1-hour SO₂ NAAQS. The Area is required to implement the CAA section 175A maintenance plan for the 2010 1-hour SO₂ NAAQS that is being approved in today's action and the prevention of significant deterioration program for the 2010 1-hour SO₂ NAAQS. The approved maintenance plan can only be revised if the revision meets the requirements of CAA section 110(l) and, if applicable, CAA section 193.

III. Final Action

EPA is taking final actions regarding Florida's request to redesignate the Nassau County Area to attainment for the 2010 1-hour SO₂ NAAQS and associated SIP revision. EPA is determining that the Nassau County Area attained the 2010 1-hour SO₂ NAAQS by its applicable attainment date of October 4, 2018. EPA is also approving the SIP revision containing the State's plan for maintaining attainment of the 2010 1-hour SO₂ standard and incorporating the maintenance plan into the SIP. Finally, EPA is approving Florida's redesignation request and redesignating the Nassau County Area to attainment for the 2010 1-hour SO₂ NAAQS. As mentioned above, approval of the redesignation request changes the official designation of the Nassau County Area from nonattainment to attainment, as found in 40 CFR part 81.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because redesignations and SIP approvals are exempted under Executive Order 12866;
- Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

These actions are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: April 11, 2019.

Mary S. Walker,

Acting Regional Administrator,

Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K – Florida

2. Section 52.520(e) is amended by adding an entry for “2010 1-hour SO₂ Maintenance Plan for the Nassau Area” at the end of the table to read as follows:

§ 52.520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	FEDERAL REGISTER, notice	Explanation
**	**	**	*	
2010 1-hour SO ₂ Maintenance Plan for the Nassau Area	6/7/2018	[Insert date of Publication in <u>Federal Register</u>]	[Insert citation of publication]	

PART 81-DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. In § 81.310, the table entitled “Florida-2010 Sulfur Dioxide NAAQS (Primary)” is amended by revising the entry for “Nassau County, FL” to read as follows:

§ 81.310 Florida.

* * * * *

Florida-2010 Sulfur Dioxide NAAQS (Primary)

Designated area	Designation	
	Date ¹	Type
***	**	**
Nassau County, FL ²	<u>[Insert date of publication in the Federal Register]</u>	Attainment
Nassau County (part)		
That portion of Nassau County encompassing the circular boundary with the center being UTM Easting 455530 meters, UTM Northing 3391737 meters, UTM zone 17, using the NAD83 datum (the location of the ambient SO ₂ monitor) and the radius being 2.4 kilometers		
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¹ This date is 4/9/2018, unless otherwise noted.

² Excludes Indian country located in each area, if any, unless otherwise specified.

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[FR Doc. 2019-08162 Filed: 4/23/2019 8:45 am; Publication Date: 4/24/2019]